

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

DONALD JAMES ANSON,

Plaintiff,

v.

07-CV-0035

UNITED STATES OF AMERICA,

Defendant.

NOTICE OF MOTION AND MOTION TO DISMISS

PLEASE TAKE NOTICE that the defendant, by its attorney, Terrance P. Flynn, United States Attorney for the Western District of New York, Lynn S. Edelman, Assistant United States Attorney, of counsel, will move before the Honorable H. Kenneth Schroeder, Jr., at a date and time to be determined by the Court, for an Order dismissing the amended complaint, pursuant to Fed. R. Civ. P. 12(b) (1) for lack of subject matter jurisdiction. In support of the motion, defendant relies on Defendant's Memorandum of Law and Declaration of Chief Deputy U.S. Marshal, John D. Palillo, Jr., together with exhibits annexed thereto and filed herewith.

PLEASE TAKE FURTHER NOTICE that the defendant intends to file and serve reply papers. Therefore, pursuant to Local Rule 7.1(c), any papers in opposition to this motion must be filed and served at least eight (8) business days prior to the return date of this motion, or as otherwise ordered by the Court.

Dated: Buffalo, New York, September 20, 2007.

TERRANCE P. FLYNN
UNITED STATES ATTORNEY

S/LYNN S. EDELMAN
BY: _____
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To: Donald James Anson

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CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2007, I electronically filed the foregoing **NOTICE OF MOTION AND MOTION TO DISMISS** with the Clerk of the District Court using its CM/ECF system.

I hereby further certify that on September 20, 2007, I also mailed the foregoing **NOTICE OF MOTION AND MOTION TO DISMISS**, by placing said copy in a post paid envelope addressed to the person hereinafter named, at a place stated below, which is the last known address, in an official depository under the exclusive care and custody of the United States Postal Service.

ADDRESSEE

Donald James Anson
#12332-055
FCI Loretto
Unit E
Box 1000
Loretto, PA 15940

S/SHARON T. BECK

SHARON T. BECK